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AUG 20 2004

OFFICE OF PETITIONS

In re Application of :
Gillespie et al. : DECISION ON PETITION
Application No. 10/718,050 :
Filed: November 20, 2003 :
Attorney Docket No. 106207-1 :
:

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S) CONSIDERED AS NOT RECEIVED BY THE P.T.O. ...," filed July 22, 2004. This petition is properly considered under 1.53(e)(2).

Application papers in the above-identified application were deposited on November 20, 2003. However, on July 7, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

Petitioner responded with the instant petition (and petition fee). Petitioner asserts that the items indicated as omitted, the drawings, were in fact deposited with the P.T.O. with the original application papers filed on November 20, 2003. In support thereof, petitioner submitted a copy of their date-stamped return postcard. Petitioner also supplied a copy of the 2 sheets of formal drawings.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on November 20, 2003 of the correspondence assigned application No. 10/718,050, 2) it identifies the items being filed, including "2 SHEETS OF FORMAL DRAWINGS," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the two sheets of drawings, were filed on November 20, 2003.

Accordingly, the petition is GRANTED.

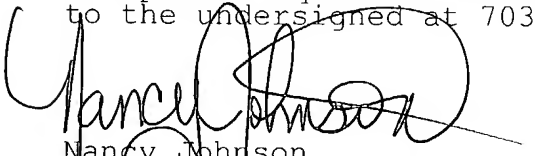
Given the basis for granting the petition, the petition fee is being refunded to petitioner's credit card.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is to be:

- processed with a filing date of November 20, 2003, using the application papers received in the Office and presently accorded that date; and the 2 sheets of formal drawings containing Figures 1-2 re-supplied on petition filed July 22, 2004; and
- with indication in Office records, as appropriate, that the application as filed included 2 sheets of formal drawings.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions